

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

RONALD LAMONT SUTTON,

Plaintiff,

v.

PAM BUCHANAN, et al.,

Defendants.

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Case No. 1:18 CV 63 CDP

MEMORANDUM AND ORDER

Plaintiff Ronald Lamont Sutton moves for summary judgment, arguing that he is entitled to judgment on the claims raised in his amended complaint because defendants failed to timely file their answers to the amended complaint. Because the defendants are not in default, I will deny the motion. I will also deny as moot Sutton's request that I enter a ruling on his motion for summary judgment.

Defendants Pam Buchanan and Bob Holder were served with summons and Sutton's amended complaint on September 26, 2018; and these defendants timely filed their answers on October 11, 2018. Although summons was returned unexecuted as to named defendant Allen Oliver, this defendant nevertheless filed his answer to Sutton's amended complaint on October 11, 2018.¹ Defendant Marishia Wheeler was served on November 7, 2018. I granted Wheeler leave to file her answer to the amended complaint out of time, and it was filed on December 18, 2018.

¹ Oliver was later correctly identified as Allen Edwards.

None of the defendants are in default.


To the extent Sutton restates the allegations made in his amended complaint and argues that he is entitled to summary judgment on his claims, these allegations alone are insufficient to demonstrate that no genuine issue of material fact exists and that he is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c); *Celotex Corp. v. Catrett*, 477 U.S. 317, 322-23 (1986); *Torgerson v. City of Rochester*, 643 F.3d 1031, 1042 (8th Cir. 2011) (en banc). Sutton has presented no evidence to support the motion or to prove that summary judgment is appropriate. See *Firemen's Fund Ins. Co. v. Thien*, 8 F.3d 1307, 1310 (8th Cir. 1993).

I will therefore deny Sutton's motion for summary judgment, but without prejudice to refiling according to the schedule set out in the case management order so that he may have the opportunity to submit evidence supporting his claims.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for summary judgment [61] is denied without prejudice.

IT IS FURTHER ORDERED that plaintiff's motion for a ruling on his motion for summary judgment [66] is denied as moot.



CATHERINE D. PERRY
UNITED STATES DISTRICT JUDGE

Dated this 8th day of July, 2019.